

EXHIBIT “G”

Part I of II

In the Matter Of:
MCCOY V. TJX COMPANY

21-cv-04907

TERESA MCCOY

January 18, 2022



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TERESA MCCOY
MCCOY V. TJX COMPANY

January 18, 2022
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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 TERESA MCCOY,

4 Plaintiff,

5 -v- Index No. 21-cv-04907

6 THE TJX COMPANIES, INC.,

7 Defendant.
8 -----

9
10 REMOTE VIDEOCONFERENCE DEPOSITION OF
11 TERESA MCCOY, a Plaintiff herein, taken by the
12 Defendant, on Tuesday, January 18, 2022, at
13 10:00 a.m., before Jeffrey Shapiro, a
14 Stenographic Reporter and Notary Public, within
15 and for the State of New York.
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1 A P P E A R A N C E S ;

2 SIMMONS JANNACE DELUCA LLP

3 Attorneys for the Defendants

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5 Hauppauge, New York 11788

6 BY: MARY C. AZZARETTO, ESQ.

7
8 MICHAEL O'NEILL, ESQ.

9 Attorney for the Plaintiff

10 30 Vesey Street, Third Floor

11 New York, New York 10007

12 BY: MICHAEL O'NEILL, ESQ.



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6 IT IS HEREBY STIPULATED AND AGREED by and
7 between the attorneys for the respective parties
8 hereto, that the filing, sealing and
9 certification be, and the same are hereby
10 waived;

11
12 IT IS FURTHER STIPULATED AND AGREED
13 that all objections, except as to the form of
14 the questions, shall be reserved to the time of
15 the trial;

16
17 IT IS FURTHER STIPULATED AND AGREED
18 that the within examination may be subscribed
19 and sworn to before any notary public with the
20 same force and effect as though subscribed and
21 sworn to before this Court.
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1 Whereupon,

2 TERESA MCCOY,

3 after having been first duly sworn, was examined
4 and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. AZZARETTO:

7 Q. State your name for the record.

8 A. Teresa McCoy.

9 Q. What is your address?

10 A. 74 West 92nd Street, Apartment 6D,
11 New York, New York 10025.

12 Q. Good morning.

13 A. Good morning.

14 Q. My name is Mary Azzaretto, and I
15 represent the Defendant, The TJX Companies Inc.
16 in this matter. I'm going to be asking you a
17 series of questions this morning.

18 I see that you are a very swift
19 speaker, as am I. This is unlike a normal
20 conversation and that we need to make sure that
21 only one of us is speaking at any given time,
22 that way the court reporter can take down
23 everything that is said.

24 So, I would ask that you just wait
25 until I completely finish asking my question

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McCoy

before you begin to respond just so we don't speak over each other. Also, the court reporter will be unable to take down any non-verbal symbols such as hand gestures or head nods or mm-hmms, so to keep all of your responses verbal, I would really appreciate that.

And if you want to take a break for any reason, let me know, we can do that, I just ask that you answer any pending questions and then we can certainly take a break?

Do you understand those instructions?

A. Yes, I do.

Q. Okay. Have you taken any medications this morning that would affect your ability to testify today?

A. No.

Q. The current address that you gave, 74 West 92nd Street, how long have you lived there?

A. Approximately two and a half years.

Q. With whom do you currently live with anyone?

A. No one.

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McCoy

Q. Where did you live prior to that?

A. A lived in a rehabilitative facility called Coler Nursing Home and Rehabilitative Facility.

Q. That's K-O-H-L-E-R?

A. C-O-L-E-R.

Q. And where is that located?

A. It's on Roosevelt Island in New York 10044.

Q. Back on July 28th of 2019, where were you living at that time?

A. Here at 74 West 92nd street.

Q. Okay. Was anyone living with you at that time?

A. No.

Q. What type of facility is the Coler Rehabilitation facility? What type of rehabilitation do they do?

A. They do various forms of physical rehabilitative facility, and I think that there's -- there's a part of it that might deal with long-term care.

Q. And were you there for any type of physical ailments?

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McCoy

A. Yes. I was in a wheelchair.

Q. And do you have a particular condition that puts you into that wheelchair?

A. My ankylosing spondylitis at the time, I wasn't being treated for it.

Q. Ankylosing spondylitis, what is your understand of what that is?

A. Well, it is an auto-immune disease in nature, in the sense that it -- my immune system sort of attacks itself. And in this case, it's my spine, the cervical and the lumbar and the sacroiliac, and it fuses in some parts of the vertebra. And it is -- there is a predisposition, a genetic predisposition to it, and it's degenerative.

Q. Now, we will get more into that when we get to the damages portion, but for now I'm just going to ask, when were you first diagnosed with ankylosing spondylitis?

A. Honestly, I'm not exactly sure. Maybe 20, 30 years ago. I believe I have a gene for it.

Q. What is your marital status?

A. Single.

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McCoy

Q. Do you have any children?

A. No.

Q. Have you ever been known by any
name other than Teresa McCoy?

A. No.

Q. What is your date of birth? And we
could leave it off the record, if you'd like.

MR. O'NEILL: Well, why don't you
just take the -- I've given it to you in
the answers to interrogatories.

MS. AZZARETTO: Understood.

MR. O'NEILL: I don't want it in the
transcript.

MS. AZZARETTO: I just said we can
keep it out of the transcript, I'd just
like to hear her say it, we can keep it
completely off.

MR. O'NEILL: So, it's off the
record?

MS. AZZARETTO: Yeah.

BY MS. AZZARETTO:

Q. You can answer, Ms. McCoy, we're
not going to put it in the transcript, it's
just for my notes.

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McCoy

A. Can you repeat the question?

Q. Sure. What is your date of birth?

A. (Answer off the record.)

Q. And what is your Social Security number? Same thing, we can leave it completely off the record.

MR. O'NEILL: I don't think you're entitled to her Social Security number, so I'm going to instruct her not to give that.

MS. AZZARETTO: I'm definitely entitled to a plaintiff's Social Security number on a personal injury action. But if you want, we'll mark it for a ruling.

MR. O'NEILL: Okay.

(So marked for a ruling.)

BY MS. AZZARETTO:

Q. Are you a U.S. citizen?

A. Yes, I am.

Q. Are you currently employed?

A. No.

Q. What's your highest level of education?

A. Midway through college.

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McCoy

Q. Where did you go to college?

A. I began at NYU, and then years later, I continued on at Hunter.

Q. When did you attend NYU?

A. Thirty-five years ago.

Q. Did you major in any particular area?

A. No, it was beginning, it was the earliest stage, so there was no major at that time.

Q. How long did you go to NYU?

A. One semester.

Q. For what reason did you stop, if any?

A. I was living with someone, we were essentially married and living together, and he was French, we travelled quite a lot and it just became impractical.

Q. Were you legally married?

A. No.

Q. When did you go to Hunter College.

A. In the 2000s and the last semester I attended was 2009.

Q. How long did you go to hunter for?

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A. Two years.

Q. Did you major in any particular area?

A. English.

Q. Did you receive a degree from Hunter?

A. Not yet.

Q. Are you still attending, currently?

A. I would like to.

Q. Are you currently enrolled?

A. No.

Q. Do you have plans in the future to re-enroll, so to speak.

A. I would like to.

Q. Do you have any plan to do that as of right now?

A. No.

Q. Why did you stop attending Hunter College?

A. It became -- it just became impractical, I was doing it part-time while I was working, and it was -- it was a lot to juggle.

Q. Do you hold any type of

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McCoy

professional licenses or certifications?

A. No.

Q. You mentioned that you're not currently employed.

When were you last employed, if at all?

A. Well, for many years I worked for myself. So, I would say the last time would have been 2010, 2011.

Q. What did you do at that time?

A. I had a production company and I did various producing and consulting.

Q. Is that for television or something else?

A. Film, television, books, media.

Q. And you were the owner of that company?

A. Yes.

Q. And how long did you do that for?

A. Thirty years.

Q. So, you began approximately 1980?

A. In my -- yes, absolutely. The company, yes.

Q. And does that company still exist?

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McCoy

A. No, it doesn't.

Q. What happened to that company?

A. I disbanded it.

Q. When was that?

A. Officially, technically, I think
maybe 2019, but I hadn't been -- yeah, about
2019.

Q. Had you been actively working in it
at that time or something else?

A. No.

Q. When had you last been actively
engaged in that business?

A. 2014, 2013.

Q. And the business just existed
during 2014 and 2019 without any actual
business taking place, would that be accurate?

A. I was doing -- yes -- no, there was
some business taking place, but it wasn't as --
I was doing -- selling some art, so I was
selling it through the company that the company
owned, and it was more -- it was not as
involved, I didn't do as much.

Q. So, from 2014 to 2019, you were
doing less through the company, including

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McCoy

selling art; is that correct?

A. Yes. Well, 2017, I was living in the rehabilitative facility and trying to get better, so I was doing very little.

Q. Is that the reason why the company ultimately was disbanded or something else?

A. Yes.

Q. What was the name of the company?

A. McCoy Projects Inc.

Q. Do you have any intention of starting up that company again, or starting any new companies of your own at this time?

A. No.

Q. Other than McCoy Projects Inc., have you been employed in any other capacity over the last 30 years?

A. Well, my company would get hired by other companies to perform various projects.

Q. So, you would work for other companies through your own company?

A. Yes, that's it.

Q. On July 28th of 2019, was that company actively operating?

A. No.

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McCoy

Q. I keep saying that day, July 28th,
2019.

Is it your understanding that that was
the date of incident that is the subject of
this lawsuit?

A. I think it is. I don't have
anything in front of me, so -- but it wasn't --
it was in late July and in 2019, so I'm
assuming that is.

Q. Okay. Do you currently receive any
form of income?

A. I receive SSI.

Q. When did you first start receiving
SSI?

A. I received -- I was approved for it
when I was living in the facility, but you are
only limited to a certain amount of money when
you're there. So, when I left, that's when I
started to receive the full amount. So, I
think that was -- I'm not sure. It might have
been July, it might have been June of 2019, I
don't recall the specific date.

Q. The date of the accident that is
the subject of this lawsuit, do you recall if

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McCoy

you were receiving SSI at that time?

A. Yes, I would have been.

Q. And how much were you receiving at that point?

A. I don't exactly recall, maybe -- I don't know the specific number, maybe \$900 a month.

Q. And I understand it's an estimate, that's fine.

Are you still receiving SSI, currently?

A. Yes.

Q. Is it still \$900 a month or has it changed?

A. It might be a little bit more than that.

Q. Other than the SSI, do you currently receive any other form of income?

A. No, I receive -- no, not income.

Q. Do you receive any other type of finances --

(Talking over each other.)

A. I receive SNAP benefits.

Q. And what are SNAP benefits?

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McCoy

A. It's like Food Stamps.

Q. How long have you been receiving
that?

A. The same amount of time.

Q. So, since approximately 2019?

A. Yes.

Q. How much Food Stamps do you
receive, currently? How does that work?

A. I think it's approximately \$300 a
month.

Q. Was that the same in July of 2019
or was it different?

A. No, I think it was less.

Q. Do you recall how much it was in
July of 2019?

A. Maybe \$100 less. I may be wrong.
These are really just guesstimates.

Q. That's fine. I don't want you to
guess at anything. If you can estimate, that
is fine. If you can't, just let me know.

A. It was probably \$200, maybe a
little bit more than that. They recently
increased the amount of SNAP benefits, so
that's why it recently become more.

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McCoy

Q. Where did your incident take place?

A. I'm sorry, can you repeat that?

Q. Sure. Where did the incident take place?

A. My falling?

Q. Yes.

A. In the store -- in the HomeGoods store.

Q. Where is that HomeGoods store located?

A. It's just up the block from where I live. I live off of Columbus Avenue and it's up on Columbus, and let's see, about 100th Street or something, it's across from Whole Foods, I'm not exactly -- there's like -- it's a little bit weird up there with the street, so I'm not exactly sure whether it's like 100th or 101st Street, but it's around there. It's on the east side of Columbus Avenue.

Q. And that's in New York, New York; correct?

A. Yes, New York, New York.

Q. That particular HomeGoods store, is it a standalone store, part of a shopping

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2 center, something else?

3 A. They consider it a bit of like a
4 strip mall, because there's a number of stores,
5 there used to be a Modell's next to it and I
6 know across the street there is a TJ Maxx and
7 then the Whole Foods. So, it's sort of
8 considered to be like a bit of -- it's not like
9 a mall because you don't go into it, but there
10 is a string of shops.

11 Q. Had you ever been to that HomeGoods
12 store at any point prior to July 28th of 2019?

13 A. I don't recall.

14 Q. The HomeGoods store, how many
15 entrances and exits did it have for customer
16 use?

17 A. As I recall, there is an in --
18 door -- glass door that allow you to go in, and
19 then right next to it are glass doors that
20 allow customers to exit.

21 Q. How many levels was the HomeGoods
22 store for customer use?

23 A. There is the main floor and they --
24 there is a basement.

25 Q. When you first exit through that

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McCoy ,

entrance door, what is located there? Is there
an escalator, are you on a sales floor,
something else?

A. Yes, you're on the sales floor.

Q. Now, you indicated that that store
also has a basement.

Was there an escalator going down a
level in order to access the basement?

A. There is no escalator, or if there
is, I don't -- I didn't see it. There's an
elevator that goes down.

Q. And where is that located in
reference to where you enter?

A. It's in the back.

Q. For what purpose, if any, did you
go to HomeGoods that day?

A. To look for things for my new
apartment.

Q. Approximately what time did you
arrive at the store?

A. I don't recall. I know it was in
the afternoon, I'm not exactly sure if it was
the early afternoon or the later afternoon, but
it was definitely after 12:00 p.m.

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McCoy

Q. If I said around 3:45 p.m., would that refresh your recollection?

A. Yes, that might be accurate.

Q. How did you get to the store that day?

A. I walked up using a walker.

Q. Can you describe the walker that you were using on that day?

A. It's called a Drive, it's manufactured by Drive and it is -- the name of it is -- I'm not -- there's a specific name to it, but I'm not remembering it at the moment, it's gray, it has two wheels in the back and you can push it, and there is like a seat if you need to sit on it.

Q. How long had you been using the walker as of that point in time?

A. Probably for about a year. A year.

Q. And that was because of ankylosing spondylitis; correct?

A. It was because I had -- yes, I was -- I had been transitioning out of a wheelchair, we were trying to get me on a correct medication.

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McCoy

Q. So, you were out of the wheelchair
as of that point; correct?

A. Yes.

Q. How long prior to that time was it
you had been in the wheelchair?

A. Like a year. I mostly took the
walker so that I could -- if I thought about if
I was going to bring anything back, that it
would be helpful to use it to bring something
back.

Q. So, just to be clear because my
question wasn't before. As of the date of this
accident on July 28th of 2019, you've already
been using that walker for approximately a
year; is that accurate?

A. Yes. At the facility, they sort of
insisted on it.

Q. Okay. Do you still have that
walker?

A. Yes.

Q. Do you still use that walker today?

A. Yes.

Q. Do you use it every time you leave
the house, only on certain times?

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McCoy

A. Since the fall, I use it most of the time.

Q. Do you use it while you're in your own home, as well?

A. No, I don't. I also have a cane which I use sometimes in the home.

Q. What level do you live on, currently? I assume it's an apartment building?

A. Yes.

Q. And what floor do you live on?

A. On the 6th floor.

Q. And is there an elevator that you use to get in and out of the building?

A. Yes, there is.

Q. What was the weather like on the day of your fall?

A. I don't recall. It wasn't raining.

Q. What were you wearing that day?

A. I don't recall.

Q. Do you recall if you were wearing pants, as opposed to a dress or a skirt?

A. Oh, pants.

Q. How about footwear, do you recall

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1	McCoy
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2 | your footwear?

3 A. Most likely sneakers.

4 Q. And again, I don't want you to
5 guess. Only what you remember.

6 A. Yes, Nike sneakers.

7 Q. Did you go to the store with anyone
8 or were you alone?

9	A. Alone.
---	-----------

10 Q. What had you done earlier that day,
11 if anything?

12 A. I don't recall.

13 Q. Was there any type of medication
14 that you took on a daily basis back on July
15 28th of 2019?

16 A. Yes, I take taxol, approximately 30
17 milligrams on a daily basis and --

18 Q. And what is that for?

19 A. For generalized anxiety,
20 depression.

21	Q.	Okay.
----	----	-------

22 A. And I'm not sure -- not on a daily
23 basis, but that would be the only one on a
24 daily basis.

25 Q. Was there any medication you were



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McCoy

taking for your spondylitis at the time?

A. Yes, Humira.

Q. And what was that for? Was that an
antiinflammatory?

A. No, it's among the class of drugs
that are called TNF inhibitors. They --
essentially they suppress your immune system so
that it can't really attack itself, and it
is -- I have to give myself an injection. At
the time, I had someone coming to give it to
me, but it's -- I have to give it -- I get it
weekly.

Q. So, back in the time of this
accident in July of 2019, you were receiving a
daily injection of Humira?

A. Weekly.

Q. Excuse me. Okay. And now,
currently you said you take it daily or did I
misunderstand?

A. No, a weekly injection.

Q. Still weekly. Okay. And at the
time in July of 2019, you had someone giving it
to you?

A. Yes, I had a care attendant who

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McCoy

came regularly.

Q. When you say "regularly," once a week --

A. They came weekly to give it to me.

Q. Did the care attendant perform any other functions other than administering the Humira?

A. No.

Q. The care attendant, was it the same person every week?

A. Not always.

Q. What facility was the care attendant a part of?

A. I don't remember.

Q. Do you have any records at home which would indicate the agency or the company through which --

(Talking over each other.)

A. Yes, it would be somewhere in my files.

Q. Okay. And when did the care attendant stop coming to give you those injections?

A. It was probably a couple of months

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McCoy

after that. Yeah, probably a couple of months
after that.

Q. For what reason did a home -- or
care attendant, rather, stop coming?

A. I didn't want them to come anymore.

Q. Was there any particular reason?

A. They never came on time and it
wound up being more complicated -- I tend to be
an independent person, I try to be an
independent person and I was always having to
wait for them, and that I never knew who was
going to come. And I decided I would try to
give myself the injection.

Q. And you've been able to do that
ever since?

A. Yes.

Q. How long were you in the HomeGoods
store approximately before your fall took
place?

A. A very short amount of time.

Q. What you consider short and I
consider short may be different, so let's try
and narrow it down a little bit within a number
of minutes, a matter of seconds, something

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McCoy

else?

A. No, some minutes.

Q. Would you say less than five minutes?

A. I would say between maybe five to ten minutes.

Q. This particular HomeGoods, does it have shopping carts for customer use?

A. Yes, it does.

Q. Did you utilize the shopping cart in any matter that day?

A. At that point, no, because it was very, very near to the front of the store, and they didn't have shopping carts located there, yet.

Q. Were you intending to use a shopping cart if it had gotten to that point?

A. I might have, except that I indicated that I brought the walker for that purpose.

Q. You said before that the walker could also be used as a seat.

Can you move in the walker while you're in a seated position?

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1 McCoy

2 A. No. I mean, you could, I suppose
3 if you used your feet, but it's not intended to
4 use -- to be used like that.

5 Q. When you first arrived at the
6 store, I assume you went in through the
7 entrance door; correct?

8 A. Yes.

9 Q. Once you went through that front
10 door, can you describe to me what was to your
11 left, to your right and straight ahead?

12 A. Okay. To the left, they have a
13 number of displays of merchandise. And sort of
14 forward and to the left, some -- some sort of
15 like display tables with various things on
16 them, various merchandise. And basically --
17 yes, and then going straight, if you were to go
18 forward, straightforward, you would see maybe
19 one or two aisles, and again display tables
20 with lots of merchandise on them.

21 To the right, if you passed over the
22 section -- the area where you would exit those
23 doors, there are more like shelf type things
24 with lots of oils and teas and chocolate and
25 things like that, more like food type things.

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1 McCoy

2 Q. Okay. Now, as you enter the store,
3 you were using the walker at the time?

4 A. Yes.

5 Q. Where is the first place that you
6 went after you entered?

7 A. I went off just forward a little
8 bit to the merchandise on the left.

9 Q. What type of merchandise was there
10 in that area?

11 A. They have a lot of very nice vases
12 and things like that, sort of things that you
13 might display in your home, lots of interesting
14 sort of knick-knacks, vases, trays, some
15 beautiful trays that they sell there, pillows,
16 lamps.

17 Q. How was that merchandise displayed
18 in that area, was it on shelving units, tables,
19 something else?

20 A. Well, initially it was on shelving
21 units on these display tables. Do you want me
22 to -- should I speak about the actual incident
23 where I --

24 Q. I'm going to get to that. I just
25 want to kind of take it step by step. So, when

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McCoy

you first entered the store, you indicated that you walked a little bit forward into the left, to area with --

A. Well, not really to the left because it's not that big, you can pretty much just be in the store like three, four feet and just turn your head to the left and, you know, you're kind of taking it in. You're not -- you don't necessarily have to sort of go off anywhere, it's very -- it's right there.

Q. And that area right there, which you described now as kind of straightforward where the vases were, in that area, was the merchandise on a display, shelves, tables, something else?

A. I mean, I don't recall. I'm pretty -- I think that -- I don't recall, but I think that there are sort of display type units along that wall where they have the lamps and vases and things of that nature.

Q. And did you browse in that area for a particular period of time?

A. No, I think I just viewed it. I even -- I have -- never mind.

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McCoy

Q. Did you then leave that area and go to a different area of the store?

A. There wasn't an area to leave. I stayed in that general area. I just looked at a different -- in a different direction.

Q. What direction did you look in?

A. More straight in front of me.

Q. And when you say straight in front of you, would that be further into the store if I --

(Talking over each other.)

A. Maybe a foot or two feet further into the store.

Q. And you began browsing in that area?

A. Not bruising, I noticed this -- this stool and I thought it was nice-looking.

Q. When you say you noticed it, where did you see it?

A. It was in front of a display unit.

Q. Can you describe the display unit for me? Was it a shelf, was it a table, something else?

A. Yes, a kind of like -- kind of like

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McCoy

a table, not a shelf, like a surface, like a raised surface area.

Q. How far raised off the ground was it?

A. Maybe three feet.

Q. And the stool that you saw was located on the floor in front of that shelf?

A. Yes, on the floor, a little bit in front.

Q. Was there anything on the shelf itself?

A. Yes, there were other items.

Q. What other items were on the shelf?

A. I don't recall.

Q. Was it one item or more than one item?

A. More than one item.

Q. Were there any other stools similar to the one on the floor located on the shelf?

A. I don't recall.

Q. Can you describe the stool for me, please?

A. Yes. It had a very sort of crafty look to it, it was sort of like a kind of rope,

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McCoy

like rope textured seating with like kind of
almost like bamboo legs. And, you know, I
liked the way it looked, I like that look.

Q. It had four legs?

A. It had -- yes, it had four legs.

Q. What color was the rope texture at
seating part?

A. Like a natural color.

Q. Like an off-white almost?

A. No, like a tan, like a natural.

Q. What shape was it? Was it a
square, rectangle, circle?

A. It was like a square, the seating
area -- the seat area was like -- was a square.

Q. How big was it -- how wide and how
long was it?

A. Not very. You know, enough --
enough to -- to hold a person. It's certainly
not enough to hold two people.

Q. Okay. That was my next question.
But it would be enough to hold one person;
correct?

A. Yes.

Q. When you observed --

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McCoy

A. Can I just get a glass of water? I have a glass right here.

Q. Absolutely.

A. Thank you.

Q. Where were you standing when you first observed the stool, how far away were you?

A. Very close, within six inches.

Q. And once you saw the stool, did you take any steps to try it and sit on it at that time?

A. Yes.

Q. In order to get over to the stool, did you use your walker?

A. I was already there.

Q. So, you didn't need to move any closer to it in order to sit on it; correct?

A. No.

Q. Did your --

A. And I probably moved away, you know, from my walker a couple of inches, which was fine.

Q. Okay. Did your incident take place as you were in the process sitting on the

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1 McCoy

2 stool?

3 A. Yes.

4 Q. As you were sitting on the stool,
5 before the point where your fall took place,
6 were you continuously holding onto the walker
7 or had you let it go at any point?

8 A. No, I don't need to continue -- at
9 that point, I didn't need to continuously hold
10 onto the walker. I was able to walk without a
11 walker. I did bring the walker to HomeGoods
12 because I thought it would help me to carry
13 items back.

14 Q. At the point when you --

15 A. So, I just want to make that clear
16 that I didn't need to use it continuously, it's
17 not like I had to always have my hands on it.

18 Q. And you brought it to help in what
19 sense?

20 A. Because I thought if I had bags, I
21 could -- you could load them on it and then
22 wheel it home, almost the way you would use a
23 shopping cart.

24 Q. Okay. At the point when you began
25 to sit on the stool, were you carrying

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McCoy

anything?

A. No.

Q. Did you have a pocketbook or a
handbag with you?

A. It was on my walker.

Q. Do you wear glasses?

A. Reading.

Q. Were you wearing any glasses at the
time of the incident?

A. No, I don't -- I don't recall.

Q. What was the lighting like in that
area where the stool was located?

A. Very bright.

Q. What type of material was the floor
made of underneath that stool?

A. I don't know, but it was very hard.

Q. So, it was almost like a tile as
opposed to a carpet, would that be accurate?

A. Yes, exactly, no carpet.

Q. Do you know what color the floor
was underneath the stool?

A. No, I don't remember. It was like
a light shade.

Q. Other than the stool on the floor,

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McCoy

was there any other merchandise on the floor in that area?

A. Yes, I remember that there was an odd-looking like vehicle that was on the floor, like a car, like a larger -- like car, like almost like something you would see in a child's room, some sort of shade of red. And I remember thinking that it was kind of funny.

Q. Was it the kind of car that a child could sit in and ride, was it that big or something else?

A. No, no, no, no. More like a child would play with it, move it back and forth, but not like a match car -- not like a Matchbox car, something like that, but, you know, maybe a foot, foot and a half wide -- I mean, long.

Q. How close was the stool to the display unit? Was it touching it in any manner?

A. No.

Q. Could you estimate in inches or however you can, how far away from the display the stool was located?

A. A couple of inches, maybe six

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1 McCoy

2 inches.

3 Q. You mentioned before that there was
4 other merchandise on that shelving unit behind
5 the stool.

6 Were there any empty areas on that
7 shelving unit that you can recall?

8 A. I don't recall.

9 Q. At the time of this incident, what
10 was your height and weight?

11 A. 5'8", most likely 123 pounds.

12 Q. And has that changed, currently?

13 A. No, that's pretty much my -- what I
14 intend to weigh. I mean, give or take a few
15 pounds up and down.

16 Q. Okay. Did you have to be anywhere
17 later on that day?

18 A. No.

19 Q. Was there anyone else in the area
20 where your fall took place?

21 A. Yes, there were other customers.

22 Q. How many?

23 A. I don't recall.

24 Q. Was it more than three?

25 A. I really don't recall.

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McCoy

Q. Were there any --

A. It wasn't like twenty, it wasn't
like ten. So, under ten.

Q. Were there any customers in that
area of your fall before your fall took place?

A. I'm sorry?

Q. Any employees, I think I said
customers --

A. In the area?

Q. Yes.

A. Yes. There was a security guard.

Q. And did you first observe him
before your fall took place?

A. Yes, yes.

Q. How long before?

A. As soon as I entered the store.

Q. And was he posted at the front door
when you entered?

A. Close to the front door. This was
all very close to the front door.

Q. How far away was the tool from the
front door to the best you can approximate?

A. Well, you would enter the front
door, the doors open, they're automatic doors

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McCoy

and, I don't know, six feet, maybe. Maybe six,
eight feet.

Q. So, from where the security guard
was standing at the front door, he would be
able to see, to the best of your knowledge, the
area where the stool was located?

A. Oh, yes, he was very close to it.

Q. And how do you know this individual
was a security guard? Did he have any type of
uniform on?

A. Yes, he did.

Q. What type?

A. He had the kind of uniform that you
see on a security guard. You know, it was -- I
think he might have even had -- I don't recall
if it was a blue uniform or something, but it
was some form of uniform and I understood it to
be that he was the security guard.

Q. Did you see him carrying a weapon
of any sort?

A. No, I don't remember that.

Q. And you don't recall the color of
the uniform?

A. No, I don't.

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McCoy

Q. Did it look like a policeman's uniform almost?

A. Not exactly. Not as official and, you know, not as official, not with all the get-up that you see on an officer.

Q. Can you describe what he looked for me, please, approximate age, skin color, the best you can recall?

A. I know that he's an African-American man. He was on the thin side. He might have been late 30s, 40. That's what I recall.

Q. During any other point when you were at the store that day, did you observe any of the other HomeGoods employees, whether it be the manager, salesperson, anyone --

A. Yes, yes, the manager.

Q. Okay. Were they wearing any type of uniform?

A. He was not -- the manager was not, no.

Q. Were there any associates that you observed walking around that were wearing any types of uniforms?

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McCoy

A. No.

Q. Did you see anyone else wearing the same type of uniform that the individual standing at the front door was wearing?

A. No, I -- no, I don't think so.

Q. Okay. When you first entered the store that day, did you speak with the security guard at all?

A. Did I speak with him?

Q. When you first entered the store.

A. I probably said hi, hello.

Q. Did he say anything back that you can recall?

A. He might have said hi, he might have -- it was just a sort of, you know, the basic greeting that you give to people.

Q. Now, back to the area where the stool was located, describe for me what happened as you began to sit on the stool.

A. It just seemed to crumble under me, and I just crashed to the floor.

Q. Did you sit your bottom entirely on the seat before it began to crumble? In other words, had you put your full weight on the seat

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McCoy

before it began to crumble or something else?

A. I can't remember if my entire weight was on the seat or partial. I remember, you know, a good -- certainly it was enough of me to -- for it to crumble.

Q. And when you say "crumble," do you mean it went down towards the ground?

A. Yes, it just -- yes, it seemed to have sort of just give way under me.

Q. And did you land on the ground.

A. I landed on the ground, on the floor, yes.

Q. Was the rope part still underneath you when you landed?

A. No, they just sort of fell -- they just fell.

Q. In what manner did they fall? Did they fall to the side, forward, something else?

A. You know, at that moment, I wasn't really thinking where is the stool, I was in a lot of -- I was in pain, I hit myself pretty hard and I was pretty much in shock. So, I don't know, but it was close to me, you know, it -- when you -- it fell nearby me.

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1 McCoy

2 Q. After you fell, when is the first
3 point when you observed the stool?

4 A. Well, I observed -- at some point,
5 I observed, and I don't recall if it was after
6 somebody helped me up that I observed that, in
7 fact, it was two stools.

8 Q. So, was it your understanding at
9 the point in time when you sat down, that you
10 were sitting on one stool?

11 A. Yes.

12 Q. And then, in fact, after the fall,
13 you learned that it was two stools?

14 A. Yes.

15 Q. Had the stools been stacked one on
16 top of another --

17 A. Yes.

18 Q. Right next -- right on top of
19 another. Okay.

20 How much time passed from the moment
21 when you first saw the stool and the moment
22 when you sat down on it?

23 A. Not a lot of time, you know, you
24 look at something, you -- piece of furniture,
25 you think oh, that's nice, let me see if it's

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McCoy

comfortable, you know, it might have been a
minute, a minute and a half.

Q. And were you looking at the tool
that entire minute, minute and a half --

A. Yes, I was taking it in. I was
taking it in visually, you know, the aesthetics
of it, the color.

Q. Did you touch it with your hand at
all before you began to sit on it?

A. Yes, I touched the top of it, that
rope -- that sort of rope and rope texture.

Q. And did you look at the leg portion
at all before you sat on the stool?

A. I just recall it looking as if it
was, you know -- it was like a wooden leg, like
a bamboo type of legs, other than that --

Q. Do you recall seeing how many there
were before you sat on it?

A. It was one. I mean, I saw it as
one, the way it was stacked, it looked as if it
was one.

Q. I meant how many legs?

A. Oh. No, I don't remember if I
thought to myself how many legs are there.

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McCoy

Q. So, as you sit here today, do you know in what manner the stools moved when you sat on it? Because I understand you didn't necessarily see it until afterwards.

Do you know if they toppled over, slid out from underneath, the legs broke, any other thing like that?

A. Nothing broke. It -- yes, it felt like it toppled over, it toppled down and over.

Q. When you say "over," over to the left, over to the right?

A. I don't remember if it was over to the left or over to the right. I was pretty much concerned with me at that point.

Q. Understood. When you observed the stools for the first time after the fall, did you see any broken portions of either stool?

A. No.

Q. Where were the stools located in relation to each other when you first saw them? Were they still one on top of another, were they next to each other, something else?

A. When I first them after the fall?

Q. Correct.

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McCoy

A. They were on the floor next to each other, it -- yes. When the manager eventually came over, he was the one who said to one of the employees get these up off the floor, they shouldn't be here.

Q. When you say they were next to each other, were they touching each other?

A. I don't remember.

Q. Okay. I'm just going to show you two photographs that we marked, and ask you a couple of questions about them..

A. Okay.

(Discussion off the record.)

BY MS. AZZARETTO:

Q. I'm going to show you what's been marked as Defendant's Exhibit A for identification.

(Exhibit A was so marked for identification.)

BY MS. AZZARETTO:

Q. Do you know what's depicted in that photograph?

A. Yes, that's one of the stools.

Q. Does that appear to be the same

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McCoy

stool that was involved in your incident?

A. Yes, it does.

Q. Is there anything different about the way the stool looks in that photograph than how it looked on the date of incident, understanding that you -- it's your testimony that they were one on top of each other, and in this photograph they're not one on top of each other, but just with regard to how it looks physically, is there anything different?

A. Yes, it's on its side.

Q. Okay. But is it structurally different in any way? It's just positioned differently; correct?

A. From I can see, it looks like it was the same.

Q. And there's another stool located directly to the left?

A. Yes.

Q. Do you know if that was the second stool that was involved in your incident?

A. I -- from what I can -- I only have a sliver of it in my -- on my computer.

Q. Okay. Is Defendant's Exhibit A a

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McCoy

fair and accurate representation of how the stools appeared on the date of your incident, again, not with regard to positioning, just physically how they look?

A. Yes.

Q. Okay.

A. And not with regard to the fact that they were one on top of each other; right?

Q. Understood.

A. Okay.

Q. I just want to make sure that we're looking at the same stool, basically --

A. Yes.

Q. -- and I understand it was positioned differently.

A. Yes.

Q. If we can take a look at Defendant's Exhibit B I just want to ask you about, that one has a better view of what it's sitting on (indicating).

(Discussion off the record.)

BY MS. AZZARETTO:

Q. Ms. McCoy, can you see this photograph?

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1 McCoy

2 A. Yes, I can.

3 MS. AZZARETTO: Can you scroll down
4 just a little bit more?

5 (Discussion off the record.)

6 BY MS. AZZARETTO:

7 Q. Now, this is what we've marked as
8 Defendant's Exhibit B for identification.

9 (Exhibit B was so marked for
10 identification.)

11 BY MS. AZZARETTO:

12 Q. Does this photograph also show the
13 two stools that appear to be the same ones
14 involved in your incident?

15 A. Yes, it does.

16 Q. And as you could see, they appear
17 to be sitting on what looks like a white table
18 of some sort; is that correct?

19 A. Yes.

20 Q. Is that the same type of table that
21 was located directly behind the stools on the
22 date of your incident?

23 A. Yes, that's what I described as the
24 display units.

25 Q. Okay. That is the same unit from

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McCoy

what you can tell in looking at Defendant's
Exhibit B?

A. Yes, I'm pretty sure.

Q. Do you see on the bottom left-hand
side of that white --

A. Yes.

Q. -- display unit there what appears
to be a red toy of some sort?

A. Yes.

Q. Is that the red toy that you were
referring to --

A. Yes, it is.

Q. Do you know who took Defendant's
Exhibit A and Defendant's Exhibit B?

A. I did.

Q. How many photographs did you take
total at that time?

A. I think just these two.

Q. Were these photographs taken on the
same day as your incident?

A. Yes, they were.

Q. How long after?

A. Within ten minutes, 15 minutes. At
that point, I had been helped up. I know I was

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McCoy

bleeding, they were getting me Band-Aids. So,
I was seated on a bench nearby, and I took it,
then.

Q. Did you take it with your phone or
something else?

A. Yeah, I took it with my phone.

Q. Do you still have those photographs
saved on your phone?

A. I probably downloaded them to my
computer.

Q. Your camera went off again.

A. Oh, I'm sorry.

(Discussion off the record.)

BY MS. AZZARETTO:

Q. Did you ever take any photographs
on any later dates after the accident took
place?

A. At the store?

Q. Yes.

A. No.

Q. Are you aware of anyone else taking
any photographs of the area where the fall took
place?

A. No, I'm not.

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1 McCoy

2 right hip torso area?

3 A. The right side of my torso, yes.

4 Q. And were you kind of laying on the

5 ground at that point --

6 A. Yes, I was laying on the ground?

7 Q. On your right side?

8 A. Yes.

9 Q. And how long did it take for

10 someone to come over to you?

11 A. I don't remember. It was -- people

12 came over rather quickly.

13 Q. Okay --

14 (Talking over each other.)

15 A. I just remember somebody saying,

16 "Oh, my God, help her up, get her up."

17 Q. Was it a matter of seconds, a

18 matter of minutes, just the best you can

19 recall?

20 A. Until I was helped up?

21 Q. Yes.

22 A. Not seconds. A minute, probably.

23 Q. Okay. And you believe that you

24 weren't sure if it was a customer or someone

25 along those lines who helped you up; correct?

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McCoy

A. I believe so, yes.

Q. Was it male or female?

A. I don't remember.

Q. Was it one person or more than one person that physically helped you up?

A. I think it was just one person. There were a number of customers around, but I think it was just one person who helped me up.

Q. And in what way did that person physically help you up? Did he or she put their hands under your arm or something else?

A. No, they reached out their hand so that I could hold their hand and arm to steady myself, to get up. I don't recall them putting any hands under my -- their hands under my arm or that sort of thing.

Q. Okay. And in doing that --

A. I know I had to sort of probably get myself to my knees first, and then, you know, slowly get up that way. So, they helped to steady me.

Q. And then eventually you were able to pull yourself up to a standing position; correct?

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McCoy

A. Yes.

Q. During this time period, did you have any conversations with the person that was physically extending their arm to you?

A. I don't recall.

Q. Now, you indicated there were other customers in the area.

During the point in time that you were getting up, did you have any conversations with any of those individuals?

A. I don't recall.

Q. Do you know the names of any of the customers that were in the area after your incident?

A. No, I don't.

Q. Are you aware if any of those customers actually saw you fall?

A. I don't -- I'm not aware of it, I'm not -- I can't tell.

Q. You've indicated before there was a security guard standing by the door.

To your knowledge, did the security guard actually witness you fall?

A. I would imagine that he did, but I

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McCoy

observed the two stools after the incident,
were you in the process of getting up, already
standing up or something else?

A. I don't recall.

Q. Now, when you ultimately had a
conversation with the security guard, please
tell me in sum and substance what he said to
you and what you said in response, if anything?

A. Well, he did point out that I was
bleeding. He asked if I needed some sort of,
you know -- could he get me a Band-Aid or a
bandage, and then I remember that I was very
upset and I said, "What happened? How is that
two stools? What happened? That looked like
it was one stool. And you have this other
thing here, this car here, what is going on?"
I mean, I was sort of, you know, ranting about
like the condition of what had just happened.

Q. What did he say, if anything, in
response?

A. I don't remember what he said. I
know that when the manager did come, he did
instruct someone, I don't know if it was the
security guard or another employee, he

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McCoy

instructed someone to get these things off the floor.

Q. And I'll get to the manager, I just want to get through the guard first, we need to do them one at a time.

A. Oh, okay.

Q. So, other than what you've already told me, did any other conversations take place between you and the guard?

A. He might have said, "Should I call an ambulance?" That might have been the manager, but he might have said it. Somebody said it, "Should we call an ambulance?"

Q. And what was your response to that?

A. At the time, I probably said, "No, don't call an ambulance."

Q. And why did you not want an ambulance called?

A. Because at the time I remember thinking, you know, I don't want to deal with the whole hassle of being -- wait for an ambulance to come and then go to an emergency room and go to a hospital and be checked out, and it's just going to be like a whole day and

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McCoy

night thing and, you know. And I thought to myself, you know, I'm sure I will be okay, yeah, I'm bruised and I'm bleeding, but I want to be okay, so I'll just be okay.

Q. Where were you bleeding from?

A. I was bleeding on my arm.

Q. Your right arm?

A. Yes, my right arm, near my elbow, I think. I think there were a couple of places, I might have been bleeding on my leg, as well, near my knee.

Q. That's your right leg?

A. Yes.

Q. So, near the right elbow, near the right knee, anywhere else?

A. I don't remember, no, I don't recall.

Q. Were you feeling pain in any parts of your body at that point?

A. Sure.

Q. Where?

A. Pretty much all over.

Q. Your entire body?

A. Yeah, it felt like, you know, I had

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McCoy

just kind of sustained a blow.

Q. How would you describe the impact with which the fall took place, was it hard, medium?

A. Very hard. I feel like I can still almost hear like the slap of my body hitting the floor.

Q. Did you hear any cracking or breaking noises, so to speak, as it was happening?

A. No.

Q. Did the car factor into your incident in any way?

A. No.

Q. Did you lose consciousness at all?

A. No.

Q. Now, when you were in the process of sitting down on the stool, where were you looking?

A. I don't remember, I don't recall. Most likely in the, you know -- I was probably looking -- I don't recall.

Q. Let me ask it this way --

A. But not off to another part of the

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McCoy

store.

Q. I'm trying to figure out how you were positioned, so let me ask it a different way. When you began to sit on the stool, what direction was your face --

A. Oh, okay. I would be looking out of the store.

Q. Toward the sidewalk?

A. Yes, toward the sidewalk.

Q. But you don't recall specifically where you were looking at the time; is that fair?

A. No.

Q. Okay.

A. I might have been looking down, I might have, you know -- but the stools, because they were in front of that display unit, I couldn't get to the other side of them. So, in order to sit on them, I would be facing outward.

Q. When you say "facing outward," what do you mean?

A. Towards the outside of the store.

Q. Your body was facing the outside of

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McCoy

the store?

A. Yes.

Q. Did you lose consciousness at all?

A. No.

Q. After the individual helped you up at that point, was the manager in the area, yet?

A. If not at that moment, very soon after.

Q. Were you helped to a seat by somebody?

A. Yes, somebody helped me. There was a bench nearby and I was helped to the bench.

Q. Is that immediately once you got up or did you stand for a period of time?

A. It was a few feet away.

Q. But did you do it right away?

A. They helped me up and they helped me over to the bench.

Q. And by "they," is that the customers that were in the area that you referenced before?

A. Yes, yes.

Q. And other than what you've already

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McCoy

told me, do you remember having any other conversations with any customers in the area at that time?

A. Probably just that it was just so chaotic, the situation with the stools, that it turned out to be two stools, this red car and just how sort of haphazard everything seemed to be in that area, the display seemed to be very haphazardly done.

Q. And why do you say that?

A. Just that it wasn't -- there wasn't a sense of order to it, it was kind of very messy.

Q. Other than the car and the stools, were there any other items on the floor?

A. Not that I recall.

Q. And again, the car didn't come into play in the accident in any way; correct?

A. No, but it was very close to it, so I feel, you know -- so, when I fell, I feel like I fell very close to that red car, as well.

Q. But you didn't strike it any manner correct?

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McCoy

A. No, I don't -- I don't remember. I don't think so.

Q. Did the display table behind the shelf appear overcrowded in any way?

A. Yes.

Q. How many items were on that display?

A. The display behind the -- the one that the stools were eventually put on?

Q. I'm talking about the one that was the white display that was in the photographs, you indicated that appeared to be the same display table that was behind the shelf on that day; is that accurate?

A. Not behind the shelf. Behind the stools.

Q. The stools, excuse me, that's what I meant. Okay. That's what I'm referring to, I'm asking if that was overcrowded in any way?

A. Yes, there were a lot of things on there, but it's true that -- they do tend to sort of load things up.

Q. Did you see any employees putting any merchandise on that shelving unit while you

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McCoy

were present?

A. No.

Q. Do you know how many items of
merchandise --

(Talking over each other.)

A. Oh, I'm sorry. While I was present
after the fall?

Q. Before the fall.

A. No, I don't recall.

Q. Did you see anyone loading more
merchandise onto that white display table after
the fall?

A. They loaded the stools on the --
the manager told someone to get the stools up
and to move the red car.

Q. Was there room on that display
table to put the shelves onto after the fall
or --

A. To put the stools onto. At that
time, there must have been because at that --
but at that point, I wasn't really sort of
looking at what they were doing afterwards to
the stools, I was in pain and I was in shock,
and I was sort of trying to figure out like

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McCoy

what just happened and what should I do?

Q. Let's talk about the manager. Is it male or female?

A. Male.

Q. Do you know his name?

A. I have it down somewhere, I think. He gave it to me.

Q. Can you describe for me what he looked like?

A. He was a White guy and he was maybe 40s. He had a shirt on, he didn't have a jacket, he had a shirt on and maybe jeans or khakis or something like that. That's all I really remember.

Q. Now, when he came over to you, did you have a conversation with him?

A. Yes, yes.

Q. What did he say to you and what did you say to him?

A. He said, "Oh, my God, are you okay? I'm so sorry." And I said -- I told him what had happened and he said, "This is not your fault at all, they shouldn't have been there, this shouldn't have been there like that." And

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McCoy

that's when he instructed, it was either the security guard or another employee to get the stools, get everything off the floor.

Q. And did you see who it was who physically put the stools back on the shelves?

A. No, I didn't.

Q. Was that done while you were there, though, if you recall?

A. Probably, yes.

Q. Only if you remember, I don't want you to guess, do you remember seeing it?

A. I wasn't paying attention at that point to what they were doing with the stools. You know, he was asking me -- I do recall very clearly that he said, "This is not your fault." And he asked me how I was, what did I need, did I need an ambulance? You know, he gave me his information and --

Q. Did he -- I'm sorry, were you done?

A. Yes.

Q. Did he tell you where the stools were supposed to be?

A. No.

Q. Did he take down any type of report

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McCoy

while you were in the store?

A. I remember he did take information down, yes.

Q. What information did he take down?

A. He took my name, my phone number. I'm not sure if he took my address. I -- as I said, I indicated to him what had happened, so he most likely took that down, as well. But I don't remember whether there was like an official form he was filling out.

Q. Did you sign anything that day?

A. No, I don't think so.

Q. Did he give you a copy of any report that day?

A. No.

Q. Other than --

A. He gave me his name and number and said he was the manager and -- and I think that was it. He was very nice, he was very nice.

Q. Do you still have that piece of paper at home?

A. I don't know if I still have the piece of paper. I know I transferred the material at one point to my computer.

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McCoy

Q. Other than -- withdrawn.

After that initial conversation you had with the security guard that we already spoke about, did you ever speak with him again at that point or was that the only one?

A. I think that was it, yes, that was it.

Q. Other than the security guard, the manager that we already spoke of and the unknown customers that were in the area, did you have any conversations with anyone else at the store that day after the fall?

A. Yes, I stayed in the store.

Q. For how long?

A. A period of time, I continued to shop.

Q. Before the point when you began to shop again, is there anyone else you spoke to about the incident that we haven't discussed already, before you got up and continued to shop? I just want to make sure I'm not missing anybody.

A. No, no.

Q. Do you know how long those stools

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McCoy

to the store since?

A. Once or twice.

Q. Did you have any conversations on the phone with anyone from either the store or a representative of the store after the accident?

A. I know somebody called me from an insurance company. I don't know whether I spoke with them or whether they just left a voicemail message.

Q. Now, there came a time after you gave your information and spoke with the manager that you continued to shop; correct?

A. I went downstairs, yes.

Q. Did you end up ever purchasing the stools?

A. No.

Q. After you left area of the stools after the fall, did you go immediately downstairs or did you browse in any other areas first?

A. No, I think I went to the back, to the elevator and went downstairs.

Q. And you used the walker at that

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McCoy

time?

A. Yes.

Q. How long did you browse downstairs
for?

A. I don't know, 30 minutes.

Q. Did you have any difficulty walking
during that time?

A. I was using the walker, I remember
I started to feel -- towards the end of the 30
minutes, 40 minutes when I was on line getting
ready to pay for a few items, I started to feel
like I was in pain.

Q. Where?

A. Just in my body, in general, in my
body.

Q. Had the bleeding stopped at the
point when you began shopping again?

A. I don't remember because I think I
had a Band-Aid on me, so it's not like I could
see whether I was still bleeding or not.

Q. So, after the approximate 20
minutes downstairs, had you --

A. A little bit longer, 30 minutes,
and then I remember there was a long line to